



## COUNTY OF BERKS, PENNSYLVANIA Office of the Commissioners

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Ronald R. Seaman, Chief Administrative Officer  
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Maryjo Gibson, Chief Clerk

August 27, 2021

Dear Independent Regulatory Review Commission Members,

On behalf of the County of Berks, we wanted to share our concerns about Rulemakings 10-221 (Long-Term Care Facilities, Proposed Rulemaking 1). We appreciate the Department's continued attention to long-term care and the residents of Pennsylvania throughout the COVID-19 pandemic. This season has been extremely challenging for the long-term care community, and we are grateful for the continued support and partnership the Department has provided. County nursing homes and other affiliated long-term care facilities care for one of the most vulnerable populations. Berks Heim Nursing and Rehabilitation is owned by the County of Berks and is currently providing care for a daily average of 310 patients out of a possible 420 beds available.

Proposed Rulemaking 1 looks at nursing services within long-term care facilities and calls for an increase in the minimum number of direct resident care hours from 2.7 a day to 4.1 per shift. Berks Heim generally follows an average of 3.43 hours of direct care a day, but the average dipped beneath 3 recently due to employee shortages and the additional challenges of the COVID-19 pandemic. It has become increasingly difficult to attract and hire sufficient staff to meet even our current needs. Even if staff were available to fill the roles this proposed change would require, the Department does not have the necessary data to calculate the potential end cost for counties.

Nursing facilities have always struggled for staff, even in more normal times, due to the difficult nature of these long-term care and nursing jobs. We have been working on creative hiring solutions, but many staff are leaving the healthcare profession entirely to pursue other opportunities with higher wages and less stressful work. At Berks Heim, we are currently contracted with three nursing agencies to help fill the gap, but their rates are increasingly higher than what we pay our own staff. Using agency staff also does not provide the consistency in care that we strive for because they do not know our residents or facility as well.

While the call for an increase in direct care hours may seem overdue since the minimum has not been raised in two decades, it does not take into account the other regulatory and reporting requirements and increased sanitization needs long-term care staff have added to their plates. The proposed direct care hours also would apply to all shifts, which means that facilities will need to have the same number of staff to care for residents during the night when residents are sleeping as during the daytime hours, leading to fewer hours to complete other duties that are essential to ensuring overall resident health and safety within long-term care facilities.

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Further, it is important to note that Nursing Home owners and operators should be at the table when addressing nursing home operations. This rule came out without any input from the County of Berks or our state association, PACAH. This lack of cooperation in strategic planning is not helpful and results in a rule that makes very little sense.

We understand that the effort to increase patient hours is well-intended, but given the current environment and the impact on facility operations, the outcomes for residents could actually be negative and hit county nursing facilities disproportionately hard. We are committed to those we serve and urge you to consider the potential negative outcomes of this proposed rule.

Sincerely,

**Berks County Board of Commissioners**

  
Christian Y. Leinbach, Chair      Kevin S. Barnhardt, Vice Chair      Michael S. Rivera, Commissioner